IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

JEFFERY DUANE BRISCO §

VS. § CIVIL ACTION NO. 1:06cv233

UNITED STATES OF AMERICA §

MEMORANDUM ORDER OVERRULING MOVANT'S OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Jeffery Duane Brisco, proceeding $pro\ se$, filed this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court previously referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion to vacate. The magistrate judge recommends the motion to vacate be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Movant filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court agrees with the magistrate judge's conclusion that movant validly waived

his right to collaterally attack his conviction in his plea agreement. The objections are therefore without merit.

ORDER

Accordingly, movant's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing the motion to vacate.

SIGNED this the **29** day of **November**, **2006**.

Thad Heartfield

United States District Judge